

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 16-6307

JERMAINE LORENZO PICKETT,

Petitioner - Appellant,

v.

DIRECTOR, VADOC,

Respondent - Appellee.

Appeal from the United States District Court for the Western
District of Virginia, at Roanoke. Glen E. Conrad, Chief
District Judge. (7:16-cv-00024-GEC-RSB)

Submitted: May 18, 2016

Decided: May 23, 2016

Before SHEDD, DIAZ, and HARRIS, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Jermaine Lorenzo Pickett, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Jermaine Lorenzo Pickett seeks to appeal the district court's orders dismissing his 28 U.S.C. § 2254 (2012) petition as successive and denying his motion for reconsideration.* These orders are not appealable unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1)(A) (2012). A certificate of appealability will not issue absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2) (2012). When the district court denies relief on the merits, a prisoner satisfies this standard by demonstrating that reasonable jurists would find that the district court's assessment of the constitutional claims is debatable or wrong. Slack v. McDaniel, 529 U.S. 473, 484 (2000); see Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003). When the district court denies relief on procedural grounds, the prisoner must demonstrate both that the dispositive procedural ruling is debatable, and that the petition states a debatable claim of the denial of a constitutional right. Slack, 529 U.S. at 484-85.

* Because Pickett's motion was filed within 28 days after entry of the district court's dismissal order, it is properly construed as a Fed. R. Civ. P. 59(e) motion, rather than a Fed. R. Civ. P. 60(b) motion. See Fed. R. Civ. P. 59(e).

We have independently reviewed the record and conclude that Pickett has not made the requisite showing. Accordingly, we deny a certificate of appealability, deny leave to proceed in forma pauperis, and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

DISMISSED